

CHAPTER NO. 826

HOUSE BILL NO. 724

By Representatives Curtiss, Borchert, Mike Turner, Gresham, Pleasant, Stanley

Substituted for: Senate Bill No. 905

By Senators Clabough, Cooper

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 6, relative to plumbers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 6, is amended by adding sections 2-17 of this act as a new part.

SECTION 2. The title of this part is and may be cited as the "Limited Licensed Plumbers' Act of 2004."

SECTION 3. As used in this part, unless the context otherwise requires,

(1) "Limited licensed plumber" means any person who performs any plumbing work that has a total cost of less than twenty-five thousand dollars (\$25,000.00) and who is required to be registered under the provisions of this act.

(2) "Board" means the state board for licensing contractors pursuant to Tennessee Code Annotated, Section 62-6-104.

SECTION 4. Nothing in this act shall be construed to provide that a limited licensed plumber is a contractor. It is the intent of this act to provide that a limited licensed plumber is subject to the jurisdiction of the board solely for the purposes of licensure and disciplinary proceedings. No limited licensed plumber shall be authorized to use the appellation "contractor" or any other designation that gives or is designed to give the impression that a limited licensed plumber is a contractor unless the limited licensed plumber also holds a valid contractor's license issued by the board.

SECTION 5. (a) Except as provided in subsection (b):

(1) Any person engaged in plumbing work in this state shall be required to submit evidence of qualification to engage in plumbing, and shall be licensed as hereinafter provided.

(2) It is unlawful for any person to engage in or offer to engage in plumbing work in this state unless such person has been duly licensed under the provisions of this part, as hereinafter provided, or licensed in a municipality or county that issues licenses to persons to perform plumbing work only in such municipality or county.

(3) Any person engaged in plumbing work, including a person that engages in plumbing work on residential construction on private property for the purpose of resale, lease, rent or any other similar purpose, shall be required to submit evidence of qualification to engage in plumbing work, and shall be licensed.

(b)

(1) A person who does not have a license is authorized to engage in plumbing work only if employed by a licensed plumber, a licensed plumbing contractor or any other entity approved by the board.

(2) Any single residence homeowner is exempt from the limited licensed plumbing requirements of this act for purposes of performing plumbing work on such homeowner's own residence.

SECTION 6. (a) The board may promulgate such rules and regulations in accordance with the Uniform Administrative Procedures Act, title 4, chapter 5, which it deems necessary to effectuate the provisions of this part.

(b) The board may also prescribe forms required for the administration of this part.

SECTION 7. (a)

(1) After January 1, 2006, once a person obtains the minimum two thousand (2,000) hours of plumbing experience satisfactory to the board as required in this act, such person desiring to engage in plumbing work as a limited licensed plumber in this state shall make written application to the board on such forms as are prescribed by the board. The application shall be accompanied by a non-refundable application fee.

(2) If the application is satisfactory to the board, then the applicant is entitled to take an examination to determine the applicant's qualifications. The board shall charge each applicant an examination fee as set by the board for each examination. The board may administer an appropriate examination or may contract for the administration of such examination.

(3) If the results of the examination of an applicant are satisfactory to the board, then the board may issue to the applicant a license authorizing the applicant to perform plumbing services as provided in this part and charge a fee for such license.

(4) In addition, after January 1, 2006, the board may also issue a license without an examination to a person who has been issued a license by a municipality or county if such person has obtained the minimum two thousand (2,000) hours of plumbing experience in such municipality or county provided the test required by such municipality or county is satisfactory to the board. In such case, the examination fee shall be waived by the board. The license issued to such person shall indicate that such person is not automatically permitted to work in any municipality or county which issues its own license to engage in plumbing work in such municipality or county.

(5) Except as provided in subsection (i) of this Section, after January 1, 2006, if the license for a limited licensed plumber was issued to a person pursuant to subdivision (2) or subdivision (4), once such person submits credible evidence to the board that such person has a minimum of four thousand (4,000) hours of plumbing experience satisfactory to the board, the board shall issue a license to such person, if the application is satisfactory to the board, which permits the person to perform plumbing services in any municipality, metropolitan government or county in the state of Tennessee, as provided by the provisions of § 62-6-111(i), provided that for purposes of this subdivision such licensee shall

pay any local licensing fees in effect on the date the license issued pursuant to this subdivision is applied for.

(b) The board may issue a license as a limited licensed plumber to any person without an examination as required by this part if such person makes an application to the board prior to January 1, 2006, and evidence is provided to the board that such person has been engaged in plumbing work in this state and that all fees relative to the operation of such applicant's plumbing work have been paid to the appropriate agencies when such application is filed under this subsection. The license issued to such person shall indicate that such person is not automatically permitted to work in any municipality or county which issues it's own license to engage in plumbing work in such municipality or county.

(c) Applications for a license after January 1, 2006, shall provide proof of experience as required by the board and such plumbing experience shall not be less than two thousand (2000) hours.

(d) The exemption provisions of subsections (a)(2) and (a)(3) of Tennessee Code Annotated, Section 62-6-103, on licensure shall apply to limited licensed plumbers.

(e)

(1) Notwithstanding any provision of this act to the contrary, a license as a limited licensed plumber shall not be required for a person to engage in plumbing work in any municipality or county that issues licenses to persons to perform plumbing work only in such municipality or county; provided that such plumbing work may be used toward accumulating the minimum two thousand (2,000) hours to obtain licensure as a limited license plumber.

(2) A current copy of a license or certification issued by any county or municipality of this state prior to January 1, 2006, is evidence that such applicant had by examination by an official of such county or municipality demonstrated the qualifications required to perform such plumbing work within its jurisdiction and was actively engaged in such business on January 1, 2006.

(g) Any limited licensed plumber required by this part to be licensed, who requests a plumbing inspection, must first have a license as a limited licensed plumber issued by the board or a license issued by a municipality or county. If a municipality or county provides plumbing inspection services, then such plumbing inspection shall be provided by such municipality or county.

(h)

(1) The board shall formulate a system for inspectors, when the plumbing inspection services are not provided by a municipality or county, to report any problems they may encounter with the workmanship or conduct of a limited licensed plumber.

(2) Inspectors working under the direction of the contractor's licensing board, shall inspect limited license plumber's work no later than the time of the rough electrical inspection and such work shall be found to be either satisfactory or unsatisfactory and requiring remedial work.

(3) The board shall formulate an appropriate system and fee structure to be charged for inspections performed by inspectors working under the direction

of the contractor's licensing board to effectuate the inspection provisions of this act within five (5) years of the effective date of this act.

(i) Notwithstanding the foregoing, nothing in this act shall prohibit a city or county from adopting and enforcing stricter testing and/or experience requirements for a person to engage in plumbing work within the jurisdiction of such city or county. Provided that once an individual passes the license issued by the board to perform plumbing services statewide and such individual meets such stricter requirements, then such individual may perform plumbing services in any municipality, metropolitan government or county in this state.

SECTION 8. The provisions of the Uniform Administrative Procedures Act, compiled in title 4, part 5, govern all matters and procedures respecting the hearing and judicial review of any contested case, as defined therein, arising under this part.

SECTION 9.

(a) The board shall prescribe fees for the application, examination, issuance and renewal of licenses of limited licensed plumbers. Such fees shall be in an amount that provides for the cost of administering the licensing and regulation of limited licensed plumbers. Fees shall be adjusted as necessary to provide that the licensing of limited licensed plumbers is fiscally self-sufficient and that revenues from fees do not exceed necessary and required expenditures.

(b) In no event shall the fee for an initial license exceed seventy-five dollars (\$75.00) or fifty dollars (\$50) for subsequent renewal of such license.

SECTION 10.

(a) The board may refuse to issue or renew and revoke or suspend the license of a limited licensed plumber for faulty plumbing workmanship as determined by the board or for gross negligence, incompetency, fraud, dishonest dealing and/or misconduct in performing plumbing work.

(b) The board may refuse to issue or renew and revoke or suspend a license of any person for lack of expertise, submission of false evidence with regard to any application for license or renewal, conviction of a felony, or any other conduct which constitutes improper, fraudulent or dishonest dealing, or any other violation of this part.

(c) In addition to or in lieu of any other lawful disciplinary action, the board may assess a civil penalty against any limited licensed plumber or any person required to be licensed as a limited licensed plumber for each separate violation of this part.

SECTION 11. A duplicate license to replace any license lost, destroyed or mutilated may be issued subject to the rules and regulations of the board.

SECTION 12.

(a) A license expires on the last day of the twenty-fourth month following its issuance or renewal, and becomes invalid on such date unless renewed.

(b) Renewal notices shall be mailed ninety (90) days prior to the expiration date of the license. Such renewal must be received by the board thirty

(30) days prior to the expiration of such license and shall be accompanied by a renewal fee.

(c) It is the duty of the board to notify by mail every person licensed hereunder of the date of expiration of this license and the amount of fee required for its renewal. Such notice shall be mailed in accordance with this part.

(d) The fee to be paid for the renewal of a license after the expiration date shall be increased ten percent (10%) for each month or fraction of a month that payment for renewal is delayed. The maximum fee for a delayed renewal shall not exceed twice the normal fee.

(e) No limited licensed plumber shall be qualified to receive a renewal license when such limited licensed plumber has failed to comply with the provisions of this part for a period of one (1) year, and in such event the limited licensed plumber, in order to qualify under the law, shall make a new application as in the case of the issuance of the original license.

SECTION 13. Any person who engages or offers to engage in plumbing work without a license as required by this part, or who violates the provisions of this part or any rule or regulation duly promulgated thereunder, commits a Class A misdemeanor.

SECTION 14. The board shall inquire into the identity of any person operating under this part and shall prosecute any person violating the provisions of this part.

SECTION 15.

(a) In order to secure the effective enforcement of this part, jurisdiction is conferred on the chancery court of this state to grant injunctive relief against any person or legal entity undertaking to perform plumbing work in violation of this part.

(b) Any expenses incurred, such as depositions, travel expenses or attorney fees, required for the prosecution of the suit, shall be paid in the same manner as other expenses incurred by the board.

SECTION 16. No person shall be required to post a bond, provide a financial statement or a letter of reference in order to obtain a license as a limited licensed plumber.

SECTION 17. Except 25th Senate District.

SECTION 18. To exclude the 24th Senatorial District.

SECTION 19. Funding for this act shall not exceed the amount required to perform services required pursuant to this act.

SECTION 20. For purposes of rulemaking, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2006, the public welfare requiring it.

PASSED: May 21, 2004



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 7th day of June 2004



PHIL BREDESEN, GOVERNOR